THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.16599 OF 2006

DATED SEPTEMBER, 2006

BETWEEN

Bampally Ranga Rao and others

… Petitioners

and

The Joint Collector, Warangal District at Hanamkonda, and others.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.16599 OF 2006

ORDER:

This writ petition is filed challenging the proceedings of the first respondent, dated 17.06.2006, whereby and whereunder the revision petition filed under Section 9 of the A.P.Rights in Land and Pattadar Pass Books Act, 1971 (the ROR Act, for brevity) by the petitioner Nos.1, 3 and 5 was dismissed modifying the order of the appellate authority, the second respondent herein, dated 07.01.2006.

The brief fact of the matter shows that the land admeasuring Acs.3.08 guntas in survey No.862 situated at Hanamkonda village and Mandal, Warangal District, was the property of Samala Garudachalam and Gattaiah. The latter allegedly purchased the entire interest of the former under an unregistered sale deed, dated 19.10.1977. An extent of Acs.2.08 guntas in the said survey number was allegedly outside the purview of the Urban Land (Ceiling and Regulation) Act, 1976 (the ULC Act, for brevity). The petitioners herein allegedly purchased an extent of Acs.1.35 guntas from Gattaiah under an unregistered sale deed, dated

24.09.1982 and took possession of the property. The petitioners filed an application under Section 5-A of the ROR Act before the third respondent seeking change of record of rights and mutation in their favour. By proceedings, dated 06.08.1998, the third respondent effected mutation in favour of the petitioners and by another proceedings, dated 21.07.1998, in favour of Gattaiah, the vendor of the petitioner duly regularizing the sale in favour of petitioners under Section 5-A of the ROR Act. The fourth respondent filed appeal under Section 5-B of the ROR Act before the second respondent and by order, dated 07.01.2006 set aside the proceedings of the third respondent and remanded the matter observing that the third respondent should thoroughly enquire into the matter after affording ample opportunity to the fourth respondent as well as the petitioners and others. The petitioners 1, 3 and 5 filed revision under Section 9 of the ROR Act before the first respondent, who dismissed the revision petition.

Learned counsel for the petitioners strenuously contends that the Joint Collector has no jurisdiction to declare whether the land is agricultural land or being used for non-agricultural purposes. Secondly, he would urge that the vendor of the petitioners filed declaration under Section 6 of the ULC Act, in which the land purchased by the petitioners was excluded as forming part of the vacant land as it was outside the purview of the ULC Act. Lastly, he would urge that the impugned order was passed without application of mind. **Per contra**, learned Assistant Government Pleader for Revenue (Assignment) and the learned counsel for the fourth respondent, Sri N.Subba Reddy opposed the writ petition. They contend that the Revenue Divisional Officer (RDO) came to the conclusion that the Mandal Revenue Officer (MRO) did not give notice to all the persons interested in the land, in that though the petitioners and others purchased the land under unregistered sale deed from seven persons, all of them were not given notice before passing orders under Section 5-A of the ROR Act regularizing the sale in favour of the petitioners. For this reason, the RDO remanded the matter to the MRO. Secondly, they contend that the land is no more being used as agricultural land, which itself takes the subject land out of the purview of the ROR Act.

The copy of the order passed by the MRO in August, 1998, is not placed before this Court. Be that as it is, the RDO remanded the matter to the MRO observing as under.

> It is seen from the pahani for the year 1092-83 that Sri Samala Garudachalam is alone is the pattedar of the land in Sy.No.862 and as per the copies of pahanies filed by the appellant for the years 1983-84, 1985-86, 1987-88, 1990-91, 1993-94, 1994-95, 1997-98, 1998-99, 1999-2000 to 2001-02. Sri Samala Damoder, Madhusudan and Prakash are the pattedars

> of the said land. **As such after demise of Samala Garudachalam the said land was inherited to his (3) sons viz., Sri Samala Damoder, Madhusudan and Prakash. As stated by the respondents they have purchased the land in the year 1982, but their names have not appeared in the occupation column of pahanies till 1994-95 & 1996-97 only. It is also seen from the simple sale deed dated 24-4-1982 that the respondents have purchased the said land from (7) persons. It is mandatory to issue a notice to all the interested persons i.e., vendors and also to the vendees calling them to appear for enquiry. But none of the respondents have filed any evidence to have been issued a notice by the Mandal Revenue Officer to any of the parties which giving impression that no notice was issued to the interested/effected parties.** It is also seen from the record made available that the appellant has also filed a Civil Suit in O.S.No.243 of 2005 before the II Addl.Junior Civil Judge at Warangal seeking permanent injunction over the land in Sy.No.862/A to an extent of 1.35 guntas.
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> (emphasis supplied)

The revisional authority, first respondent herein, in its well considered order after referring to the background facts framed three issues, namely, i) Whether the land in question can be dealt with under ROR Act or not? ii) Whether revenue Court has jurisdiction to deal with the dispute on the basis of documents submitted by the petitioners or not? and iii) Whether the RDO's order is genuine or not.

Referring to the decision of this Court in **N.R.Srinivas v Madduri Mallareddy**[1], on issue No.1, the revisional authority held that the provisions of ROR Act cannot be made applicable when the land is used for non-agricultural purposes. On issue No.2, having considered the contention of the fourth respondent that the document relied on by the petitioners is false, fabricated and forged one, the Joint Collector relied on the decision of the Supreme Court in **M/s.Hindustan Steel Limited, Rourkela v Kalyani Banerjee**[2] and held that the revenue Court with limited jurisdiction cannot decide such questions. On issue No.3, the revisional authority agreed with the RDO that the matter requires thorough probe as the land falls within the urban agglomeration and is not used for agricultural purposes.

After giving anxious consideration to the submissions made by the learned counsel for the petitioners and perusing the orders of the appellate authority as well as the revisional authority, I am not able to accept the contention of the learned counsel for the petitioners that the revenue authority cannot decide the question whether the land is agricultural land or non-agricultural land. There cannot be any denial

that recording authority, appellate authority as well as the revisional authority under the ROR Act get jurisdiction only when the land is being used for the purpose of agriculture as defined in Section 2(4) of the ROR Act. It is just a matter of verification and therefore, it is within the jurisdiction of the revisional authority, first to decide the question of jurisdiction of such authority. Secondly, as found by the revisional authority, the land falls within Warangal Urban Agglomeration under the ULC Act, where houses have already come up and therefore, subject land goes out of the purview of the ROR Act. This Court, however, hastens to add that as the matter now stands remitted to MRO, these questions can be raised by the petitioners as well as the fourth respondent when a *de novo* enquiry is conducted into all aspects of the matter.

The writ petition is misconceived and is accordingly dismissed. No costs.

(V.V.S.RAO,J)

.09.2006.
pln

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[1] 2005 (1) ALD 268
[2] AIR 1973 SC 408